

SUBPART 218-5

ENFORCEMENT

Sec.	Sec.
218-5.1 Assembly-line quality audit testing and reporting for 1993 and subsequent model-years	218-5.3 Compliance testing and inspection—new vehicle selection, evaluation, and compliance action
218-5.2 Remedial action plans	218-5.4 Fleet average reporting and enforcement

Historical Note

Subpart (§§ 218-5.1–218-5.4) filed Oct. 23, 1990; repealed, new (§§ 218-5.1–218-5.4) filed April 28, 1992 eff. 30 days after filing.

Section 218-5.1 Assembly-line quality audit testing and reporting for 1993 and subsequent model-years. (a) The department shall accept the results of assembly-line testing and functional testing required by the State of California at all facilities that perform assembly-line testing in accordance with the California Code of Regulations, title 13, section 2061 (see Table 1, section 200.9 of this Title), in lieu of performing its own testing.

(b) In the event that vehicle manufacturing facilities which manufacture vehicles certified to the California standards for sale in New York are not subject to the above assembly-line testing requirements, the department shall require assembly-line quality audit testing at such facilities in accordance with the California Code of Regulations, title 13, section 2061 (see Table 1 section 200.9 of this Title).

(c) *Quality audit testing reporting.* (1) Vehicle manufacturers are required to provide quarterly reports on all quality audit and functional test results obtained as a result of compliance with this Subpart, for vehicles which are required by the State of California to be subject to such tests. Reports shall be provided to the department or to the department's designee which will provide copies of such reports to the department upon request.

(2) Manufacturers must submit quarterly reports on all quality audit and functional test results obtained as a result of compliance with subdivision (b) of this section. Reports shall be provided to the department or to the department's designee, which will provide copies of such reports to the department.

Historical Note

Sec. filed Oct. 23, 1990; repealed, new filed April 28, 1992 eff. 30 days after filing.

218-5.2 Remedial action plans. (a) *Remedial action plans for facilities covered under California's reporting requirement.* If the State of California requires a remedial action plan based upon full calendar or partial calendar quarter testing, under the California Code of Regulations, title 13, sections 2109 and 2110, (see Table 1, section 200.9 of this Title), such plan will apply to all vehicles certified to the California standards intended for sale in New York State. Such plan will not apply to vehicles that have previously been sold to ultimate purchasers in New York.

(b) *Facilities not audited under California's reporting requirements.* (1) New vehicle assembly-line inspection testing. If reports required by an assembly-line test procedure under section 218-5.1(c)(2) and (b) of this Subpart are not in accordance with reporting requirements or if surveillance under section 218-8.1 of this Part indicates that assembly-line inspection testing is being improperly performed, or that vehicles are being manufactured which do not comply with the assembly-line emission standards or functional test requirement at facilities which manufacture cars certified to California standards, but which do not ship cars to California, the department may require corrections of reporting or test procedures.

(2) Remedial action plans for facilities not audited under California's reporting requirement. (i) Remedial action for assembly-line quality audit testing of a full or combined calendar quarter.

(a) When required by the department, the manufacturer shall submit a remedial action plan to bring all new motor vehicles in possession of the manufacturer, distributors and dealers into compliance. The manufacturer shall submit the plan within 30 calendar days after notification. The department may require execution of the plan with such changes and additions as necessary, including additional testing and reporting, consistent with the applicable assembly-line test procedures. The plan shall include a schedule for implementing actions to be taken, including identified increments of progress towards implementation, and deadlines for completing each such increment.

(b) The manufacturer may, within 15 calendar days of its receipt of the department's demand for remedial action, request a public hearing, pursuant to Part 622 of this Title on the necessity for or scope of any corrective action required by the department.

(c) Failure by a manufacturer to carry out all corrective actions required by the department pursuant to the remedial action plan shall constitute a violation of that plan and of section 218-2.1 of this Part. The department may extend any deadline in the plan if it finds in writing that a manufacturer has demonstrated that such a deadline will create an unreasonable technological burden upon the manufacturer. Each vehicle required by the plan issued by the department (including any modifications made by the department) to receive remedial action which does not receive such action by the deadline(s) included in the plan shall constitute a separate violation of the plan.

(d) Failure to comply with the remedial action plan or any part of such plan required pursuant to this Subpart may result in penalties as permitted under article 71 of the Environmental Conservation Law.

(ii) Remedial action for assembly-line quality audit testing of less than a full calendar quarter of production.

(a) When required by the department, the manufacturer shall submit a remedial action plan to bring all new motor vehicles in possession of the manufacturer into compliance. The manufacturer shall submit the plan within 30 calendar days after notification. The department may require execution of the plan with such changes and additions as necessary, including additional testing and reporting, consistent with the applicable assembly-line test procedures. The plan shall include a schedule for implementing actions to be taken, including identified increments of progress towards implementation, and deadlines for completing each such increment.

(b) The manufacturer may, within 15 calendar days of its receipt of the department's demand for remedial action, request a public hearing, pursuant to Part 622 of this Title on the necessity for or scope of any corrective action required by the department.

(c) Failure by a manufacturer to carry out all corrective actions required by the department pursuant to the remedial action plan shall constitute a violation of that plan and of section 218-2.1 of this Part. The department may extend any deadline in the plan if it finds in writing that a manufacturer has demonstrated that such a deadline will create an unreasonable technological burden upon the

manufacturer. Each vehicle required by the plan issued by the department (including any modifications made by the department) to receive remedial action which does not receive such action by the deadline(s) included in the plan shall constitute a separate violation of the plan.

(d) Failure to comply with the remedial action plan or any part of such plan required pursuant to this Subpart may result in penalties as permitted under article 71 of the Environmental Conservation Law.

Historical Note

Sec. filed April 28, 1992 eff. 30 days after filing.

258-5.3 Compliance testing and inspection—new vehicle selection, evaluation, and compliance action. (a) The department may, with respect to any new vehicle engine family or subgroup being sold, offered for sale, or manufactured for sale in New York, require a vehicle manufacturer to make available for compliance testing and/or inspection a reasonable number of vehicles, and may direct that the vehicles be delivered to a specific location. Vehicles shall be selected at random from sources specified by the department, which insofar as practical shall exclude:

(1) vehicles manufactured pursuant to a specific requirement of an ultimate purchaser; and

(2) vehicles, the selection of which, if not excluded, would result in an unreasonable disruption of the manufacturer's distribution system. A subgroup may be selected for compliance testing only if the department has reason to believe that the emissions characteristics of that subgroup are substantially in excess of the emissions of the engine family as a whole.

(b) Selection and testing of vehicles and the evaluation of data shall be made in accordance with the California Code of Regulations, title 13, section 2101 (see Table 1, section 200.9 of this Title).

Historical Note

Sec. filed Oct. 23, 1990; repealed, new filed
April 28, 1992 eff. 30 days after filing.

218-5.4 Fleet average reporting and enforcement. (a) *Fleet average reporting and projection.*

(1) Commencing with the 1995 model-year, each manufacturer must report, to the department, the average emissions of its fleet delivered for sale in New York. Reports shall be submitted to the department within 60 days subsequent to the end of each model-year.

(2) Commencing with the 1995 model-year each manufacturer must provide, to the department, a projection of the fleet average emissions for vehicles to be delivered for sale in New York State during the upcoming model-year. Projections shall be submitted to the department prior to the commencement of each model-year.

(b) *Fleet average enforcement.* (1) If the report issued by a manufacturer under paragraph (a)(1) of this section demonstrates noncompliance with the fleet average contained in Subpart 218-3 of this Part, during a model-year, the manufacturer must within 60 days file a fleet average enforcement report with the department documenting such noncompliance. Fleet average enforcement reports shall identify all vehicle models delivered for sale in New York and their corresponding certification standards and the percentage of each model delivered for sale in New York and California in relation to total fleet sales in the respective state.

(2) Failure to submit an enforcement report may result in penalties as permitted under article 71 of the Environmental Conservation Law.

Historical Note

Sec. filed Oct. 23, 1990; repealed, new filed
April 28, 1992 eff. 30 days after filing.

§ 218-5.5

TITLE § ENVIRONMENTAL CONSERVATION

218-5.5—218-5.6

Historical Note

Secs. filed Oct. 23, 1990; repealed, filed April 28, 1992 eff. 30 days after filing.

218-5.8

Historical Note

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